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BEFORE THE  
**FEDERAL COMMUNICATIONS COMMISSION**  
WASHINGTON, D.C. 20554  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In The Matter Of

Amendment of Section 73.202(b)  
Table of FM Allotments,  
Atlantic, Iowa

MM Docket No. 95-124  
RM-8573

DOCKET FILE COPY ORIGINAL

To: The Chief  
Allocations Branch

**REPLY COMMENTS**

Wireless Communications Corp. ("Wireless"), the licensee of Station KJAN(AM), Atlantic, Iowa, hereby submits its Reply Comments in the above-referenced proceeding to allot FM Channel 239C3 to Atlantic, Iowa. In support thereof, Wireless states as follows.

1. Wireless is the petitioner in this proceeding seeking the change in the Table of Allotments that will result in the addition of a new FM allotment at Atlantic.<sup>1</sup> By these Reply Comments, Wireless is responding to the Comments and Counterproposal of Meredith Communications, L.C. ("Meredith"). In that pleading, Meredith requests that the Commission reject the allotment of FM Channel 239C3, as the only FM and full-time transmission service at Atlantic, and, instead, modify the community of license for Station KSOM(FM), licensed to Meredith, from Audubon to Atlantic-Audubon, Iowa. As will be shown herein, the Meredith pleading is

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<sup>1</sup> FM Channel 279C was formerly allotted to Atlantic. As a result of a change in the Table of Allotments whereby Channel 279C was reallocated from Atlantic to Glenwood, Iowa, Atlantic was left without any FM transmission service. Atlantic and Glenwood, Iowa, DA 95-1583, released July 25, 1995.

procedurally defective and substantively without merit and must be dismissed or denied expeditiously.

2. Initially, the Meredith Counterproposal fails to comply with Commission requirements. In order to serve as an acceptable counterproposal, the request must be premised on a technical conflict between the allotment contained in the rulemaking and that suggested in the counterproposal. Availability of FM Broadcast Assignments, 5 FCC Rcd 931, 933 n. 5 (1990); Atlantic and Glenwood, Iowa, DA 95-1583, released July 25, 1995 (at n. 1).

3. Meredith is well versed in the requirements for an acceptable counterproposal. In MM Docket 94-122 (the Atlantic and Glenwood, Iowa proceeding), Meredith filed a document styled "Reply to Opposition to Motion to Strike and Return as Unacceptable Comments and Counterproposal." Therein, Meredith engaged in a long dissertation on the sanctity of the policy that requires a mutually exclusive allotment request in order for the counterproposal to be invoked. Meredith's own arguments are as valid herein as they were in the other proceeding and serve as an ample basis for dismissing its pleading.

4. Even aside from the pleading's failure as a counterproposal, there are procedural flaws to Meredith's submission. By its request, Meredith asks that the existing allotment for Audubon, Iowa be reallocated in favor of a hyphenated allotment of Audubon-Atlantic, Iowa. In effect, this involves the removal of the only transmission service authorized to Audubon in favor of the hyphenated request presented by Meredith. Pursuant to

Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870, 4874 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990), the Commission will not remove the only aural transmission service authorized to a community. Again, Meredith's counterproposal fails on procedural grounds.<sup>2</sup>

5. Turning to the substance of Meredith's pleading, it is equally meritless. The heart of Meredith's claim is an economic one. Rather than face a competitor in the broadcast market, Meredith requests that it secure the monopoly for full-time transmission service in Audubon and Atlantic based on conclusory claims that the market cannot support an additional station.<sup>3</sup> The only problem with this is that the Commission has long held that it will not consider the economic effects of new allotments on existing stations when making such determinations. Policies Regarding Detrimental Effects of Proposed New Broadcast Stations on Existing Stations, 3 FCC Rcd 638 (1988), affirmed, 4 FCC Rcd 2276 (1989); Cheyenne, Wyoming, 8 FCC Rcd 4473 (1993). Hence, Meredith has no basis for its counterproposal.

6. Finally, Meredith asserts that a hyphenated allotment is

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<sup>2</sup> Meredith, which has not been a licensee for at least a year, has failed to provide the notification required by the Commission. Modification of FM and TV Authorizations to Specify a New Community of License, supra, 5 FCC Rcd at 7097.

<sup>3</sup> Meredith draws its support from the fact that the license of Station KXKT(FM) secured the reallocation of its station from Atlantic to Glenwood, Iowa. What Meredith fails to state is that Station KXKT(FM) is a full-power station that provides wide area service and has historically drawn its revenue from the Omaha, Nebraska market that its signal covers. Meredith's station is a C1 facility that cannot look to larger markets for broadcast revenue.

appropriate based on the precedent in Canton, Georgia, 3 FCC Rcd 737, 739 (1988). In that proceeding, however, the Commission denied the request for the hyphenation of communities and advised that this was a procedure to be used "very sparingly." Id. In connection therewith, the Commissions stated that a hyphenated allotment must be premised on the interdependence of the communities and that neither of the communities could support a station. In this proceeding, Meredith makes no attempt to show interdependence or the inability of Atlantic and Audubon to support a station, but merely asserts that the two communities are about 25 miles apart and are not located near any major city or town. This evidence fails to satisfy the test set by the Commission. In fact, the Commission should follow the precedent of Canton, Georgia and allot the frequency to Atlantic.

7. Putting aside Meredith's attempt to maintain the economic base for its station, the Commission cannot ignore the fact that Atlantic, a community of more than 7,000 individuals, has no full-time transmission service. In Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982), the Commission set out its priorities for FM allotments. Wireless submits that the provision of the second local service which will operate on a full-time basis will serve the public interest. When compared with a proposal to hyphenate the community of license of a station that is the only local service to another community, there is no question that the initiation of a full-time voice in the community of Atlantic is of paramount importance. Consequently, Meredith's request must be

denied on the merits.

WHEREFORE, for the foregoing reasons, Wireless Communications Corp. respectfully requests that the Commission adopt the change in the Table of Allotments and allot FM Channel 239C3 at Atlantic, Iowa and dismiss or, in the alternative, deny the Comments and Counterproposal of Meredith Communications, L.C.

Respectfully submitted,

**WIRELESS COMMUNICATIONS CORP.**

By: 

Barry A. Friedman  
Thompson, Hine and Flory  
Suite 800  
1920 N Street, N.W.  
Washington, D.C. 20036

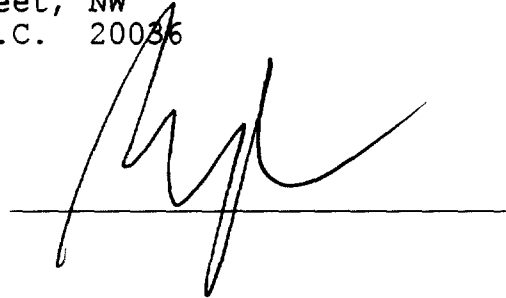
Its Attorneys

Dated: October 3, 1995

CERTIFICATE OF SERVICE

I, Barry A. Friedman, do hereby certify that I have, on this 3rd day of October, 1995, served a copy of the foregoing "Reply Comments" on the following party, by first-class mail postage prepaid:

Gary S. Smithwick, Esq.  
Smithwick & Belenduik  
1990 M Street, NW  
Washington, D.C. 20036

A handwritten signature in black ink, appearing to be "G. Smithwick", is written over a horizontal line.